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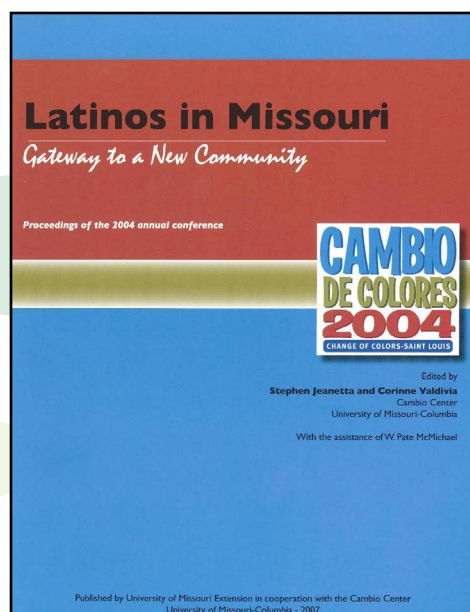
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Counterterrorism and the Latino Community since Sept. 11

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Introduction

In 2003, immigration and national security are intermingled in the U.S. in unprecedented ways. While the new restrictive immigration policies following Sept. 11, 2001, appear to be targeted at Arab-American and Muslim-American communities, the government appears to be granting itself broad new authority that could be used against anyone. Since 35 million Latinos make up the nation's largest minority, and because 40 percent of the Latino population is foreign-born,¹ these changes have caused serious concerns in the Latino community. Furthermore, since many Latinos live in mixed-status households² and communities—meaning that undocumented immigrants, lawful residents, and U.S. citizens live interdependently—even measures that are aimed at the undocumented population have huge spillover effects on the larger Latino community.

This paper documents the impact of counterterrorism measures and policies implemented since Sept. 11 on the Latino population.

“Antiterrorist” Policies That Hurt Latinos

The government's counterterrorism efforts have had the most negative effects on American Muslims and Arab Americans. However, many of the newly enacted policies have had a detrimental affect on Latinos as well—an affect that will continue to be felt for many years.

Viewing Immigration as a National-Security Issue

Perhaps the change that will have the most far-reaching impact on the Latino community is the creation of a broad, new national security agency. The law creating the Department of Homeland Security (DHS) signed in December 2002 abolishes the Immigration and Naturalization Service (INS) and incorporates immigration services and enforcement into DHS—a move that fundamentally changes the way immigrants and immigration are treated in the U.S. Placing the immigration agency within a new mega-national security agency jeopardizes our country's rich immigration tradition and threatens to make the already poor treatment of immigrants by the federal bureaucracy even worse.

Long before Sept. 11, it was obvious that the INS needed to be restructured to better serve immigrants seeking residency and citizenship in the U.S., not to mention enforce our nation's immigration laws more effectively. The various reports pointing to INS deficiencies regarding the events of Sept. 11 only add to the certainty that INS needed to be fixed. Before Sept. 11, a vigorous debate focused on how to create an efficient, effective, well-managed, and balanced immigration agency that is accountable for its treatment of the people it serves.

The authorizing legislation for the new agency ignored this debate and the proposals it produced. The new law sends a clear message that all immigration is to be treated as a national-security issue and that immigrants will be viewed as terrorist threats. Simply burying all federal immigration functions in the DHS without restructuring the INS, as originally proposed, is unlikely to fix the inherent problems of immigration processing and enforcement. Nor is it likely to make Americans safer.

¹ *Beyond the Census: Hispanics and an American Agenda*. Washington, DC: National Council of La Raza, August 2001.

² According to the Urban Institute, one in 10 children in the U.S. lives in a mixed-status family in which at least one parent is a noncitizen and one child is a citizen. “Children of Immigrants Fact Sheet,” Washington, DC: The Urban Institute, 2001.

New Change of Address Requirements

In a move touted as a counterterrorism device, but which criminalizes and alienates law-abiding immigrants, the Department of Justice (DOJ) announced that it would renew enforcement of section 265(a) of the Immigration and Nationality Act, a 50-year-old law requiring all noncitizens to report a change of address within ten days of moving. The law also attaches criminal penalties to failure to submit a change of address and may even lead to deportation. The first high-profile application of the law was the case of a Palestinian man who was stopped for driving four miles over the speed limit and then placed in removal proceedings for retroactively failing to file a change of address form.³ This latest attempt to track immigrants subjects millions of Latino immigrants to deportation simply because they were unaware of this rule at the time they moved. Even those who correctly submit the forms may experience problems because the INS has not been able to process the forms that it has received by mail. In July 2002, the press reported the INS had 200,000 unprocessed change-of-address forms sitting in boxes in an underground storage facility. Since then, the number of forms received by the INS has skyrocketed from 2,800 per month to 30,000 per day. The nearly one million additional forms the INS has received are now also sitting in storage, exposing a large number of immigrants to potential deportation for allegedly failing to comply with the law. Enforcement of section 265(a) clearly does not aid in the war against terrorism, provides the INS and its successor agency with more information than they can handle, and criminalizes the activities of innocent, law-abiding immigrants.

State and Local Police Enforcement of Federal Immigration Law

Another new measure promulgated after Sept. 11 has been to enlist state and local law enforcement officers in a variety of activities. While the safety and security of our communities and our country are of the utmost importance, and increased information-sharing between intelligence agencies will aid counterterrorism efforts, new policies that would allow local police departments to enforce federal civil immigration law may, in fact, hinder terrorist and other criminal investigations and have a serious negative impact on Latino communities.

In June 2002, Attorney General John Ashcroft declared that state and local police have the authority to enforce civil and criminal immigration violations of immigration law. In the months since that announcement, state and local police have been called upon to catch violators of the new registration and change of address requirements. In April 2002, several months before Ashcroft's announcement, the press reported that the DOJ was poised to issue a new legal opinion. This new, unreleased Office of Legal Counsel (OLC) opinion purportedly declares that state and local police have the "inherent authority" to enforce civil and criminal immigration violations of immigration law. While the legal opinion has never been made public, this announcement indicates that the DOJ has reinterpreted the law and overturned decades of legal precedent, sending an immediate chill through Latino communities. Ashcroft's June 2002 announcement appears to be based on this unreleased legal opinion.

The mere suggestion that local police may have the authority to enforce immigration law has resulted in fear in Latino and immigrant communities resulting in increased unwillingness to cooperate with law enforcement, to report crimes, and to come forward as witnesses. Millions will be affected by this rule as law enforcement officers, who are untrained in immigration law, stop and question Latinos and other Americans who "look" or "sound" like they might be foreign. Unlike federal immigration officials, police departments do not have training in or understanding of the complexities of immigration law. As a result of these problems, police departments lose the trust of the communities they aim to protect, communication between the police and large segments of the community is lost, and all Americans are less safe. Many police departments across the country have stated that they will not involve themselves in immigration enforcement because they recognize the detrimental effects that the loss of community trust can have.

³ Bixler, Mark, "Minor immigration slip becomes costly to INS: Palestinian faces ouster on little-used law," *Atlanta Journal-Constitution*, July 10, 2002.

New Airport Security Policies

Airport security is an obvious concern following the terrorist attacks. However, several of the measures taken by the federal government in an effort to enhance airport security have had a harmful effect on Latino workers. While these policies may convince the public that the government is improving airport security, they do not accomplish any meaningful antiterrorist goal.

As a legislative response to the terrorist attacks, Congress passed an aviation security law in November 2002. The Aviation Transportation and Security Act (ATSA) requires that all baggage screeners be U.S. citizens. Tying together citizenship and security—without any evidence that the two are linked—sets a new and dangerous precedent in the United States. As an immediate result, thousands of legal, permanent-resident baggage screeners have lost their jobs as the federal government slowly takes over the nation's airport personnel. Across the country, roughly 20 percent of all baggage screeners were legal immigrants, and in some airports immigrant workers composed 80 percent of the screener force. These legal immigrants must now find new employment, which may have left them and their families in precarious financial situations.

In addition, a series of new interagency airport security sweeps named “Operation Tarmac” has resulted in many more Latino and immigrant workers losing their jobs but has not caught a single terrorist. Operation Tarmac includes employment-file audits and criminal background checks of airport employees followed by enforcement sweeps and arrests of those with immigration violations. In some cases state and local police, and even state departments of motor vehicles, have worked with the INS and other federal agencies on Operation Tarmac activities. As a result, low-income service workers including janitors, food-service workers, mechanics, and other workers who never come into contact with planes have lost their jobs, producing headlines that suggest an active enforcement effort to the general public, even if it is unproductive with respect to terrorism.

The citizenship requirements of both ATSA and Operation Tarmac have had profound negative consequences for Latino workers, but they have not had a positive effect on enhancing airport security.

Immigrant Restrictions on Driver's Licenses

The issue of restrictions on eligibility for driver's licenses has been one of the most important and broadly felt problems for the Latino community. Without a driver's license, individuals are often unable to open a bank account, rent an apartment, establish service for utilities, or participate in many other facets of daily life. Prior to Sept. 11, there were efforts in many states to improve road safety by broadening access to driver's licenses to undocumented immigrants who live and work in the community so that they may obtain proper driver training and vehicular insurance. However, the revelations that some of the 19 terrorists had state-issued driver's licenses caused many states to propose and enact restrictions on immigrant access to driver's licenses despite the fact that all of the 19 had other valid documents, such as passports that could serve as identification. Not only have these practices prohibited many undocumented immigrants from getting licensed, but many legal residents and even U.S. citizens have been caught in the restrictions because of harassment and discrimination—or because poorly conceived policies deny licenses to some of those lawfully here. At the federal level, several bills to restrict immigrants' access to driver's licenses were introduced, and other proposals to standardize licenses across all 50 states—creating a *de facto* national ID card—were considered in 2002. Driver's license restrictions have already been introduced in several states in 2003.

Although portrayed as a counterterrorism measure, denying driver's licenses to large segments of the population is counterproductive. Like all Americans, many immigrants must transport themselves for job- or family-related reasons. By allowing immigrants to obtain driver's licenses, the roads become much safer because proper driver training is ensured, more drivers will have insurance, and the government will have documentation of immigrant drivers on the road.

Implications for Comprehensive Immigration Reform

Comprehensive immigration reform, which is well documented as a public policy priority for Hispanic Americans, including those who are not immigrants,⁴ has been another victim of the terrorist attacks. Prior to Sept. 11, President Bush and Mexico's President Vicente Fox were in negotiations that could have led to comprehensive immigration reforms. While the Bush administration has said that it would like to return to pursuing an affirmative immigration agenda, there has been no action in that direction.

Despite the delay in action, the nation's focus on preventing terrorism since Sept. 11 highlights the need for comprehensive immigration reform. There are two specific elements to this overhaul that are clearly in the nation's security interest: (1) creating a procedure that brings undocumented immigrant workers in the U.S. out of the shadows and into contact with civic authorities; (2) regulating the flow of future migrants who will continue to seek job opportunities in the U.S. and who currently enter without inspection, thereby reducing undocumented immigration.

It has long been clear on all sides of the immigration policy debate that the current immigration policy regime has failed to regulate the flow of migrants to the U.S. While the legal immigration system functions in an orderly—if heavily backlogged—manner, the laws that are intended to control unwanted migration are based on the false assumption that there is not room in the labor force for migrants. Despite the assumption, there is ample evidence that a space exists for this sector of the workforce; indeed, it is currently occupied by more than 8 million workers. Increasingly, border enforcement forces these migrants to risk their lives crossing the border—at an average rate of more than one death per day—to arrive at jobs in industries that openly acknowledge that they rely on this workforce. A number of industries and their official representatives in sectors such as hotels, restaurants, and nursing homes argue that their industries could not function without these workers. They express discomfort with the knowledge that a good portion of them are here illegally.⁵ Americans seem to be largely aware that the nation relies on immigrant workers, while at the same time its policies aspire to keep them from getting here.

The increasingly obvious hypocrisy in the nation's immigration policy has led to calls from a variety of sectors—including the business community, labor movement, religious community, and ethnic groups—for reforms that better align immigration laws with the dynamics driving migration.⁶ These calls have taken on a new urgency since Sept. 11. The existence of a large undocumented population in the nation's neighborhoods and workforce, which fears contact with civic authorities and is increasingly isolated by virtue of changes in driver's license policy and local police practices, is clearly inconsistent with U.S. security objectives. There are no indications that the flow of migrants into the United States is slowing; indeed, the trends continue largely as they have for the last 20 years because U.S. law fails to accommodate the economic realities of migration. Comprehensive immigration reform along the lines of the discussion initiated by Presidents Bush and Fox could have an enormous impact, allowing the U.S. to regulate migration flows and legalize the existing workforce in a way that would allow authorities to know more reliably who is here in the U.S. and who is entering. Clearly, the ability to conduct background checks and obtain other information from migrants who are present in or will soon enter the U.S. workforce is preferable to the current situation, where those who survive the dangerous trek to the U.S. strive to live and work invisibly within its borders.

⁴ See National Council of La Raza, *Mobilizing the Vote: Latinos and Immigrants in the 2002 Midterm Election*. Washington, DC: NCLR, November 2003; Pew Hispanic Center, *National Survey of Latinos*. Washington, DC: October 2002.

⁵ See Essential Worker Immigration Coalition (EWIC), www.ewic.org. EWIC is a coalition of businesses, trade associations, and other organizations from across the industry spectrum concerned with the shortage of both skilled and lesser skilled ("essential worker") labor.

⁶ *Testimony on Immigration Policy*, presented by Raul Yzaguirre, National Council of La Raza, before the Senate Judiciary Committee Hearing: *U.S. Mexico Migration Discussions: An Historic Opportunity*, Washington, DC, Sept. 7, 2001.

Conclusion

Immigrants continue to come to the U.S. for the same reasons they always have: to work, to reunite with family members, to flee persecution, and to pursue the American Dream. One sign of their continued effort to embrace America is that in the months since Sept. 11, 2001, applications for naturalization have increased dramatically. Thousands of longtime permanent residents have taken the final step toward U.S. citizenship out of a renewed sense of pride and patriotism.⁷

Yet, there is another side to the story. Many are applying for citizenship out of a sense of fear; they feel that they must become citizens as their only protection from abuse at the hands of various law-enforcement agencies. This problem extends beyond immigrants to family and community members who also feel fearful and alienated regardless of their citizenship status.

In the post-Sept. 11 environment, the U.S. must reassess its policies and do what is necessary to make Americans safer and prevent future terrorist attacks. However, these policies first and foremost must be effective; they must truly make the nation safer rather than simply making its residents feel better. Second, counterterrorism policies must not have unintended, negative consequences or result in an opportunity for discrimination or abuse against innocent individuals or entire communities. Unfortunately, many of the anti-immigrant actions taken by the U.S. government do not meet these basic requirements.

To address these concerns and move policy in a more positive direction, the National Council of La Raza believes the government should:

- **Use its resources strategically to identify terrorists.** Collecting additional information about immigrants through registration, change of address rules, and other surveillance techniques is not an efficient or wise use of resources for antiterrorism purposes. First, the government is gathering more information than it can handle about a large number of people without any additional information about who is truly dangerous. Searching for terrorists is like looking for a needle in a haystack; by casting such a wide net and making all immigrants suspects, the U.S. has simply added hay to the haystack. The federal government should use its resources and work with intelligence agencies around the world to collect intelligence about those who wish to do us harm and share that information to ensure that truly dangerous people are not allowed into the US.
- **Develop closer relationships with immigrant communities so that they feel safe and will cooperate with the authorities in antiterrorism endeavors.** Depriving immigrants of driver's licenses, allowing local police to enforce immigration laws, using employers to enforce Social Security laws, engaging in racial profiling, and ignoring hate crimes all marginalize large segments of our communities. When immigrant communities lose faith in government authorities, lose trust in law enforcement, and live in constant fear of what new tool the government will use to deport them or their family members, important law enforcement efforts that rely on community involvement are undermined.

The U.S. stands at the threshold of an important opportunity to bring rationality and justice to its immigration policies after decades of failed experiments. Those policies are currently teeming with inconsistencies. The law seeks to discourage and restrict undocumented workers. The U.S. economy beckons low-wage workers. The law makes the hiring of unauthorized workers illegal, yet it winks at the existence of an unauthorized workforce estimated to be as high as nine million people. Increased border enforcement has not decreased the number of undocumented immigrants but has increased the number of would-be migrants who die each year along the southern border. While some argue that a legalization program would undermine the rule of law, it is hard to imagine any situation more likely to encourage disrespect for the law than the hypocrisy of the current system. It is time to realign U.S. immigration laws with the best traditions and values of the United States.

⁷ Over 700,000 new naturalization applications were received in FY 2002, compared to 501,646 in 2001 and 461,000 in 2000. INS Monthly Statistical Report, September FY 2002 Year End Report.

Like all Americans, our nation's Latinos want to be safe and free from future terrorist attacks. While there are important steps that must be taken to ensure our country's security, it is unnecessary, and probably counterproductive, to harm hardworking, contributing members of our American society who happen to be—or look like they are—foreign-born.

What Can State and Local Advocates do to Combat Anti-Immigrant Proposals?

- **Document your stories.** Immigrants themselves are the best witnesses to the plight of immigrants. Advocates need to document immigrant stories to provide evidence of how policies affect the community. Congress and other policymakers often make decisions in a vacuum without understanding the impact on real people. Policymakers do not know the hardships that immigrants must overcome, and the implications that new policies have on individuals. Many people often change their minds about policies when they meet the real-life individuals that those policies affect. Therefore, compelling stories are the best way to educate policymakers and the general public. Advocates at the state and local level can help change existing policies and prevent bad future policies by telling their stories and putting a human face on the issue.
- **Write an op-ed or a letter to the editor.** It is important to publicize the impact of post-Sept. 11 policies, and the best way to do that is through the media. National organizations have materials to help you write a good op-ed or letter to the editor and can provide tips for getting it published.
- **Write a letter to your member of Congress.** Senators and representatives in Washington and in your state capitol need to hear from you. Anyone can write a letter, even people who are not citizens or who did not vote. Make sure that your letter is clear and respectful.
- **Join a campaign.** There are many campaigns to help immigrants in the U.S. You can join with others to help immigrants get access to driver's licenses or to pass legislation allowing immigrant students to receive in-state tuition. There are also campaigns aimed at broad legalization of undocumented immigrants. Get involved at the local level!
- **Lobby your state's elected officials.** During election years and years leading to elections, state elected officials are most open to hearing from the voters who will elect them. Make appointments to meet with them. Have an agenda or set of questions. Build coalitions of various groups together who might back the same issue. For example, a state in-state tuition bill can bring various interest groups in addition to Latinos. All immigrants should support this bill, so think about contacting Asian groups, for example. Religious organizations and Catholic churches are often open to supporting education and rights initiatives for immigrants. Moreover, local law enforcement has been surprisingly supportive of opening up access to driver's licenses and *matriculas consulares* for local immigrants. Build coalitions.
- **Make sure to follow up.** Visiting one elected official is not enough. You must contact and talk to everyone who has a vote, even if you think that they might vote against you. It is most effective if you can bring busloads of advocates on a given date to descend on your state capitol and lobby for certain issues. This approach was very effective in Maryland in getting a progressive driver's license bill enacted.
- **Keep informed of developments.** There are national list serves on a variety of issues including immigration and drivers license issues. Furthermore, all states keep their legislative calendar on the Internet, and it is easy to call the staff of state representatives during legislative sessions to check up on the progress of certain bills. If you want to see a bill passed, you will have to consult frequently with legislator sponsors during the term so that they don't forget about your legislative project. It is not enough to convince a legislator to file a bill because over 90 percent of proposed legislation never become law.
- **Collect information on how your state officials are doing on key issues.** How many Latino kids need ESL or bilingual education, and how much is your state spending on each of these kids? You

will be surprised that budgets for ESL education can run as low as \$10 per year per Spanish-speaking child! Or find out what are the racial profiling hot spots are for Latinos in your state. Information is power.

- **Keep track of your advocacy activities.** Write down who you talked to, write up a short information memo, and make it available to advocacy groups who will work with you on a given issue.